

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 2439 of 2005

Between:

M. Prakash, s/o Laxmaiah,
Jangam Depot, Warangal District.

..... PETITIONER

AND

Depot Manager, APSRTC, Jangaon Depot, Warangal District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondent with held the petitioner's two year annual increments with future effect by order No. 01/197(1)-55-JN, dt. 9-1-1996 is illegal, arbitrary, contrary to the rules, and declare the same is null and void and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interests of Justice.

Counsel for the Petitioner: MR.S.PRADEEP KUMAR

Counsel for the Respondent : SMT.P.RAJANI REDDY

The Court, at the stage of admission, made the following :

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ORAL ORDER

The petitioner is working as a driver in the respondent-Corporation. He was issued a charge sheet on 09-08-1995 on the allegation of some irregularities and after receiving the explanation of the petitioner, the final orders were passed on 09-01-1996 imposing the penalty of withholding of one incremental stage for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment for a period of two years with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

The learned Counsel for the petitioner relied on a judgment of the Supreme Court in ***KULWANT SINGH GILL V. STATE OF PUNJAB***¹ wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 9 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside in view of the judgment of the Supreme Court in Kulwant Singh Gill (1 supra), on account of long lapse of time in filing the writ petition, I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment for two years without cumulative effect. But, the petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of one annual increment for two years without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. No costs.

K.C.BHANU,J

14TH FEBRUARY 2005

*TSNR

To

1. The Depot Manager, APSRTC, Jangaon Depot, Warangal District.
2. Two C.D.Copies.